

EXHIBIT TO DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

CIVIL ACTION NO. 4:18-CV-00576

EXHIBIT C

Michael Veit
July 09, 2019

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1 IN THE UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 MICHAEL J. VEIT)
5 Plaintiff,) CIVIL ACTION
6 V.) NO. 4:18-CV-00576
7 LYONDELL CHEMICAL)
8 COMPANY)
9 Defendant.)

10 *****
11 ORAL AND VIDEOTAPED DEPOSITION OF
12 MICHAEL VEIT
13 JULY 9, 2019
14 *****

15 ORAL AND VIDEOTAPED DEPOSITION of MICHAEL VEIT,
16 produced as a witness at the instance of the
17 Defendants, and duly sworn, was taken in the
18 above-styled and numbered cause on JULY 9, 2019, from
19 9:20 a.m. to 2:45 p.m., before Mendy A. Schneider,
20 CSR, RPR, in and for the State of Texas, recorded by
machine shorthand, at the offices of ROBERSON LAW
FIRM, 2700 Post Oak Boulevard, Suite 21st Floor,
Houston, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto; that the deposition shall be read and
signed.

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A P P E A R A N C E S

2

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12 VIDEOGRAPHER:

13

MR. LES PATE

14

15

16 ALSO PRESENT:

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1 Q. You said you retired from -- from Honeywell.
2 You have like a retirement program there? You collect
3 retirement from Honeywell on, like, a monthly basis
4 or --

5 A. Not a retirement stipend. You had a sum that
6 you had paid into 401(k), of course.

7 Q. Mm-hm.

8 A. And that's -- that's what I withdrew.

9 Q. Okay.

10 A. But if I would have stayed a little bit
11 longer, I would have earned -- I mean, the retirement
12 was minuscule because of the short time that I had
13 been, so....

14 Q. I'd like to go back to something you said. I
15 think you -- I mean, we started talking about Pat
16 McFall earlier.

17 You first met Pat McFall in 1986 or --

18 A. Yes.

19 Q. -- 1988, somewhere around there, during
20 Stone & Webster, right?

21 A. Correct.

22 Q. And how would you characterize your
23 relationship with Pat McFall at that time?

24 A. Good. I mean, I selected him to be my role
25 when I left to go to Bechtel. So, I thought he was a

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1 the first week that I was at Lyondell, where this
2 project was. In fact it was kind of comical back
3 then, that I was in Tripp's office one day, Stan
4 Tripp's office, and -- with Pat McFall, and I said,
5 "Stan, you didn't tell me what the truth was about
6 this project before I signed on."

7 He said, "Of course not. We would have
8 never told you the truth because you would have never
9 left Honeywell."

10 I said, "Okay." I said, "We have a" --
11 "We have a very bad problem here."

12 In fact, the first -- on the third week
13 that I was at Lyondell was the first Foster Wheeler
14 executive review meeting with executives from Lyondell
15 at the Foster Wheeler office.

16 So, they wanted me to remove -- "they"
17 being Tim Roberts, Kevin Brown, Stan Tripp. They
18 wanted me to remove Mr. Moulton, Quang Moulton, from
19 the project as soon as I got there.

20 Q. And who was Quang Moulton?

21 A. He was the project manager I was brought in
22 to replace.

23 Q. Okay. So, they told you during this meeting
24 that they were going to remove Quang Moulton from the
25 project director role and they were going to replace

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1 him with you?

2 A. Well, it wasn't in that meeting. This was a
3 project review meeting.

4 But on that day, they said -- well,
5 actually even before the meeting, they said, "We don't
6 want you keeping him around," you know, "that's why we
7 brought you in."

8 I told him, "No, way. I am not letting
9 him go. He's got to stay on this project at least six
10 to eight weeks," and I said, "because I want to have a
11 real clear understanding of everything that's happened
12 and where all the interfaces were," et cetera.

13 Q. So, it was your --

14 A. So --

15 Q. -- idea to him?

16 A. -- I prevailed, and they had to keep him
17 until October the 10th.

18 Q. Okay. So, it was your idea to keep Quang
19 Moulton on the project?

20 A. Oh, yes.

21 I liked Quang. He was kind of smart-
22 alecky, but I liked him. He's a very intelligent man
23 from Rice, a Rice graduate chemical engineer. Very
24 sharp. Had been with Lyondell 26 years. He was the
25 manager of projects control.

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1 Q. You've got to wait until I'm done.

2 A. Okay.

3 Q. Did you sue the company because of all these,
4 you know, coordination issues that you're talking
5 about?

6 A. No.

7 Q. Okay. Then, why did you sue the company?

8 A. I sued the company for age and disability.

9 Q. Okay. So, what does your -- all of this --
10 that's what I was trying to get at earlier.

11 So, why do you feel like the company

12 discriminated against you because of your age?

13 A. Well, age and disability together impacted
14 greatly to my heart attack and my physical issues that
15 I had at the site, actually, having the heart attack;
16 and the fact that I was not allowed to go back, you
17 know, into that same, equivalent-type position.

18 And they probably had health concerns,
19 of course, about me. I had, you know, had a major
20 heart attack. I had an aneurysm in my left ventricle
21 that 1 out of 1500 survive. So, I'm kind of in the
22 world record book.

23 I didn't feel like they gave me an
24 opportunity to continue working.

25 Q. Let's -- let's -- and -- and I'm sorry that

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1 that -- that that happened to you, and I'm glad that
2 you've recovered.

3 So, let's start with your disability
4 claims, since that's where you're focused right now.

5 So, the disability claim. You -- you
6 had a heart attack at work in June of 2015; is that
7 correct?

8 A. June of 2015, I was at the jobsite actually
9 having a meeting, a good meeting, I thought, with
10 Randy Tatum and Mike Cain that I day. I was in a lot
11 of pain.

12 3:00 o'clock in the morning, the
13 previous morning, at the La Quinta, I had woken up at
14 3:00 o'clock, thinking it was indigestion. So, I went
15 downstairs, and there was two young girls there,
16 working the desk. I asked them to give me the
17 directions to the emergency room because I needed to
18 drive to the emergency room, and they said, "Well, you
19 want us to call 911?"

20 I said, "No, just give me the" -- "where
21 do I go, you know? I'll be there in a minute. I
22 think I have indigestion bad, but I'd better go to the
23 emergency room."

24 Well they gave me a map, and I set out.
25 Couldn't find it. I came back, and they said, "We

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1 They said, "Yeah, we think you had a
2 heart attack, but we've got to do a lot more tests on
3 you."

4 So, they are hooking me up and here
5 again checking and I -- and I said, "Do you take Aetna
6 insurance?"

7 "No, we don't."

8 I said, "Get all these off me right now.
9 You're not going to do anything."

10 So, they said, "No, you have to sign a
11 waiver." I did.

12 I went to the next emergency room. They
13 admitted me. Doctor comes in and says, "We don't know
14 why you're here. You should be dead."

15 I said, "Really?"

16 He said, "Nobody in the history of this
17 hospital has had those kind of readings." He said,
18 "Somebody up there doesn't want you."

19 I said, "How do you know it's up there?"

20 He started laughing. He said, "Yeah,
21 you've got some problems."

22 So, anyway, I had a right stent put in,
23 and then I had an aneurysm. They took -- well, I
24 didn't have the aneurysm right away. The aneurysm was
25 really caused by being stupid on my part to wait

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1 39 hours before a doctor actually saw me.

2 But when I got home after the stent was
3 put in, which was a difficult stent because the artery
4 was blocked. They were having some -- some issues
5 getting it in. They finally got it in. And I'm
6 listening to all this while they're putting a stent
7 in.

8 But then I went to go back to work. I
9 called Pat McFall and I said, "Hey, I can return to
10 work in the middle of July."

11 And he said, "Oh. Okay. Good."

12 So, I went to get checked out, and they
13 did an echocardiogram -- wasn't going do it at
14 first -- and he tells -- he tells me. He says, "Hey,
15 you're going back to the emergency room like right now
16 because you have a huge aneurysm."

17 He showed me a normal heart. He said
18 this is your heart. We don't understand how any blood
19 is getting to your heart. Must be all those aspirin
20 you took. All those little veins carrying blood to
21 your heart, but we've got to reconstruct your
22 ventricle."

23 I said, "Okay. I'm gong to go home and
24 take a shower, and then I'll go to the emergency
25 room."

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1 he told you that Lyondell is going to have to be
2 careful letting you come back to the site?

3 A. Yes.

4 Q. Okay. And because of the -- the fact that
5 you had had a heart attack?

6 A. Yes.

7 Q. Let's -- so, I -- I want to go back. I'm
8 sorry. I just want to make sure we cover everything.
9 But I want to go back to talk about, your heart attack
10 occurred in June of '15, correct?

11 A. Yes. June --

12 Q. And --

13 A. -- 25th.

14 Q. And you started working at Lyondell in August
15 of 2014, correct?

16 A. Yes. August --

17 Q. Okay. So --

18 A. -- 26th.

19 Q. -- at the time of your heart attack, you had
20 only been working for the company for about --
21 almost -- just shy of ten months?

22 A. Yes.

23 Q. Okay. Like one day shy of ten months, right?

24 A. Yes.

25 Q. So, technically, you weren't eligible to take

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1 FMLA leave at that time, were you?

2 A. That was in the 2010 procedure. They chose
3 to give me the FMLA leave.

4 Q. Right. So, they still --

5 A. Yes.

6 Q. -- afforded you the opportunity --

7 A. Yes.

8 Q. -- to get paid out from FMLA, right?

9 A. Yes, they did.

10 Q. Okay. All right. And so, after your heart
11 attack, you -- in June, you took paid FMLA leave while
12 you were being evaluated by the doctors, correct?

13 A. Yes, from June until returned after my
14 aneurysm surgery, which was September 21st.

15 Q. Okay. And so, I guess, when you came back to
16 work in --

17 Well, you said September 21st?

18 A. Of 2015.

19 Q. -- did you have any restrictions when you
20 came back to work in 2015?

21 A. Yes. The typical heart attack victim
22 restrictions. You can't carry any weight, can't do
23 any physical lifting and things.

24 I mean, I -- I didn't have that kind of
25 job anyway, so it was just more what you don't want to

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1 do at home.

2 Q. Right. So, these weren't -- these weren't
3 things that required you to have -- that required the
4 company to, like, accommodate you to continue doing
5 your job, correct?

6 A. Not accommodate me for those kinds of
7 restrictions. I mean, I didn't lift anything other
8 than books and briefcase; so, no.

9 Q. Okay. So, your -- your claim isn't that you
10 asked the company for an accommodation to come back to
11 work and they -- they denied you that accommodation,
12 is it?

13 A. They didn't deny me accommodation. You mean,
14 an office? Or what?

15 Q. No. Like an accommodation for your
16 condition, for your -- for your alleged disability,
17 after your heart attack.

18 A. Well, the disability restrictions were
19 physical; so, no, they didn't.

20 I didn't have to ask them for any
21 accommodations to maintain the restrictions.

22 Q. And you in fact came back to work and
23 continued working in -- on September 21st, 2015,
24 correct?

25 A. Yes.

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1 Q. And you worked from September 1st [verbatim],
2 2015, as a project --

3 A. 21st.

4 Q. 21st of 2015 --

5 A. To --

6 Q. -- as a project director, same position,
7 until you were terminated in January of 2016, correct?

8 A. My title, my administrative title, was
9 project director. I wasn't a project director when I
10 came back. I wasn't really -- I wasn't a project
11 director on the capital project. The title was,
12 project manager.

13 The job that I was assigned to when I
14 came back was to interface with a licensor, UOP, for a
15 butamer unit that was part of the big new PO 13
16 project that's ongoing, a \$2.4 billion project that's
17 in construction, I guess, now.

18 Q. So, another -- another big Lyondell project,
19 correct?

20 A. Yes. My only -- my only assignment was for
21 interface with the licensor and to contribute, you
22 know, based on my knowledge, to selection of the -- of
23 the engineering contractor; which, I did that, and we
24 were evaluating Bechtel and KBR and Fluor.

25 Q. But -- and so, you came back, and you were --

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1 you were still in the same position. You were still a

2 Level M1, correct?

3 A. I was still a Level M1 from pay and title, I

4 guess you could say; administrative title.

5 Q. Okay. So, you were paid the same after you

6 came back --

7 A. Paid the same --

8 Q. -- from leave?

9 A. -- yes.

10 Q. And you had the same title when you came back
11 from leave, yes?

12 A. I was still an M1 associate director --

13 Q. Of global projects?

14 A. -- from an administrative -- yeah, in the
15 global projects group.

16 Q. Okay.

17 A. Yes.

18 Q. And so, your testimony is that they -- they
19 just put you in a different position when you came
20 back?

21 A. Yeah.

22 Q. On a different project, correct?

23 A. Yes. I mean, they shunted me to really
24 nothing to do. I really had nothing to do.

25 The interface with the licensor was

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1 Q. Okay?

2 A. N-A-B-O-R-S.

3 Q. Okay. And -- but McFall didn't get let go
4 from Lyondell.

5 He's still with Lyondell, right? As far
6 as --

7 A. Yes.

8 Q. -- you know?

9 A. As far as I know --

10 Q. Okay.

11 A. -- yes.

12 Q. All right. So, he was temporarily filling in
13 for you while you were gone, and then they hired Jim
14 Nabors or they brought Jim Nabors in to take over on a
15 permanent basis while you were out; is that correct?

16 A. That's correct.

17 Q. Okay. And so -- and then you came back from
18 medical leave in September, and it sounds like the
19 basis of your disability claim is that the company
20 didn't put you back in the same position you were in
21 before; is that correct?

22 A. And equivalent position, right.

23 Q. Okay. So -- and that's the only basis for
24 your disability claim?

25 A. Well, from that standpoint, that I wasn't

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1 treated as a well employee; that they -- you know,
2 they were paying me a good salary to execute projects.
3 That's what I had done. And they were pigeonholing me
4 in a small interface with a licensor; and that
5 project, I don't even know if it actually is part of
6 the PO 13 because there was some question as whether
7 that project might be dropped.

8 So, that was not what I was told when I
9 was at home, talking with McFall in August of 2015.
10 He had this listing of different projects that he was
11 going to put me on, one in Matagorda, one in La Porte;
12 different projects. But then, when I came back, I
13 think they made a -- an attempt to put me on that
14 project and told me that, you know, it's lower stress
15 for me, and "Take it easy."

16 Q. Yeah. So, were any of these -- were any of
17 these big projects that you're talking about that
18 McFall had talked to you about in August, were any of
19 those underway when you came back in September of
20 2015?

21 A. No. They were being budgeted. But they did
22 become underway later.

23 Q. And do you remember -- I mean, but when you
24 came back, there -- there was no project for you to go
25 on, these big projects, is what I'm getting at.

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1 A. No. There was projects.

2 Q. But they -- they hadn't started yet, right?

3 A. They hadn't started, right.

4 Q. So, you were put on one of the projects that
5 had already started; the butamer unit, right?

6 A. The butamer unit was -- well, that was not
7 started. The project was started from a process
8 design standpoint with Samsung. So, I was in
9 Samsung's office in Houston, and we were doing that
10 job and then sending out the basis of design that
11 Samsung completed for engineering companies to bid on.
12 Bechtel, KBR, Fluor, they were sent a, you know,
13 inquiry.

14 Q. Mm-hm.

15 A. Request for quotation.

16 Q. And so, you were -- and then -- and that was
17 going to be a five-year job, right? So, it was not
18 like they were pigeonholing you somewhere. You were
19 going to be on a big project that was going last the
20 next five years, right?

21 A. Well, that's what I thought, yes.

22 Q. Right.

23 A. I mean, I thought I was going to continue
24 working. In fact, I told Pat McFall back in August
25 that -- you know, latter part of August, before I came

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1 back, when he was telling me I was going to go to the
2 butamer unit at the end of August.

3 Different from what he was telling me at
4 the beginning of August, after I came out of my
5 aneurysm surgery. He was saying that "This is a
6 five-year project, you know, we don't know what it's
7 going to" -- "when it's going to go, what the time
8 frame is for the approval of the expenditure, AFE";
9 but they were targeting December, I think, of 2016
10 that I was going to be on that project, yes.

11 Q. And you also testified that they said one of
12 the reasons why -- Pat McFall said one of the reasons
13 why they were putting you on that project and not back
14 on the capital project is that they expected that the
15 capital project was only going to last another four
16 weeks, right? It lasted longer, you said. But --

17 A. Yeah.

18 Q. -- they expected it was only going to last
19 four more weeks anyway?

20 A. Yes. That they would let Charlie Etter
21 finish the final four weeks, uh-huh.

22 Q. And Jim Nabors, too, right?

23 A. No. I think Jim Nabors was when -- Jim
24 Nabors was brought in in September. Probably decision
25 was made because of the lack of capability for Etter

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1 MR. HAYS: -- take another break real
2 quick.

3 THE VIDEOGRAPHER: Off the record at
4 11:15.

5 (Break from 11:15 p.m. to 11:23 p.m.)

6 THE VIDEOGRAPHER: On the record at
7 11:23.

8 Q. (BY MR. HAYS) Okay, Mr. Veit. We're back on
9 the record after a short break.

10 And is there anything you've testified
11 to previously that you need to change or clarify in
12 any way?

13 A. I probably need to clarify on the disability
14 claim.

15 I think that it was directly related to
16 my termination by Stan Tripp on January 26, 2016. I
17 think it had a part of -- major part in that
18 termination.

19 Q. One question --

20 A. You know, I had some very, very extensive,
21 high-cost surgeries and treatments. I know that these
22 things are discussed, you know, from a corporate
23 standpoint; and I was -- I was a liability, I think.

24 Q. So, first of all, what caused you to come to
25 that conclusion during the break and change your

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1 testimony?

2 A. Well, I am thinking that after -- when I was
3 at Lummus, I was caught in a force reduction back
4 then; back in 2003, I guess it was. My wife had had a
5 very major surgery. I mean, we're talking hundreds of
6 thousands of dollars for -- to correct her back from
7 scoliosis. And right after she got out of the
8 hospital was kind of -- I mean, I saw the bills that
9 the company had paid for.

10 So, I kind of think that that's part of
11 every individual that has high medical bills with a
12 company. It's not, of course, something you can say
13 or anything; but I think, you know, I was a liability,
14 I think, that's why they didn't want to send me back
15 to the site.

16 Q. I'm sorry --

17 A. I might have a heart attack again.

18 Q. I'm sorry to hear that your wife had those
19 issues, but I'm trying to figure out how that made you
20 change your testimony that you testified to
21 previously.

22 A. Well, I think I left that out, that that's
23 part of my claim, you know, the disability, is my
24 termination; that that was influencing my termination.

25 Q. Okay. So, it's your testimony that you think

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1 that somebody at the company took into account that --
2 your medical expenses and decided to terminate you.

3 Is that your testimony?

4 A. No, I don't think that. I am saying that it
5 might have been a contributing factor in my case.

6 But I think the fact that they wouldn't
7 assign me back to the site was, my health condition;
8 why they emphasized putting me on the low-stress job
9 on the butamer unit.

10 Q. But you have no way of knowing that one way
11 or another, do you?

12 A. I have no way of knowing that, of course.

13 Q. Nobody at the company saying, "Hey, we're
14 not" --

15 A. Of course.

16 Q. -- "putting you back on this project," right?

17 A. Huh?

18 Q. "We're not" -- nobody at the company said,
19 "We're not putting you back on this project because of
20 your disability," right?

21 A. Nobody from the company said that to me.

22 Q. Right. And nobody --

23 A. Only the conversation I had, supposing that
24 that was a big factor from a liability standpoint.
25 They couldn't afford me to be out at the jobsite. I

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1 attack, on the site there. You were on the site,
2 having a heart attack. They didn't send you to the
3 infirmary there at the site. So" -- you know, "you
4 drove home and ruined your heart muscle and had an
5 aneurysm. So, they're not going to let you come
6 back."

7 Q. But you no -- have no personal knowledge
8 whether or not that's the reason other than
9 philosophical conversation you had with Mr. Czaplicki
10 [verbatim]?

11 A. Correct. I had no direct statement from
12 Lyondell.

13 Q. Okay. And in your performance appraisal in
14 2015, the meeting with Mr. McFall, y'all talk about
15 things other than, you know, your -- your new
16 assignment, right? Did you talk about your
17 performance at all?

18 A. No. Actually, the only -- no, we didn't talk
19 about any performance at the -- on the project, on my
20 CC project.

21 Q. So, on the -- you and McFall didn't talk
22 about the capital project at all during your -- your
23 annual performance review in 2015?

24 A. The only thing we talked about was, I was
25 explaining to him why the project went the way it did.

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1 mean, you're talking about Jones relating Tatum and
2 Cain? Tatum, yeah. Tatum. He -- of course he would
3 tell me about Tatum complaining about me. Tatum
4 complained about me from day one.

5 Q. So, let's get back to -- let's get back to
6 your claims in the lawsuit.

7 One of your claims in this lawsuit is
8 also that the company discriminated against you based
9 on your age; is that correct?

10 A. Yes.

11 Q. What's the basis of that claim?

12 A. Same thing with the disability. The fact
13 that I was getting older and not capable of executing
14 the project.

15 And, you know, I was an older guy in --
16 in -- a high salary, older guy in the -- in the lineup
17 there.

18 Q. Okay. So, is your allegation then that you
19 were -- you were replaced by somebody younger? Did
20 somebody replace you that was younger than you?

21 A. Yes.

22 Q. And who was that?

23 A. Well, let's say Jim Nabors definitely was
24 younger than me.

25 When I left the butamer project, they

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1 A. Yeah. About that age, yeah.

2 Q. And -- and is there any other basis for your
3 age discrimination claim besides what you've already
4 testified to here today?5 A. Well, you know, Lyondell has had quite a
6 reputation of churning out project directors, project
7 managers. In fact, the headhunter -- before I went to
8 Lyondell, I actually was going to be a Foster Wheeler
9 manager. I had an opportunity with Foster Wheeler.
10 But when I went for the interview with the different
11 people at Lyondell, I decided to take the Lyondell
12 offer.13 And I relayed back through the
14 headhunter that I -- I have to stop this process
15 because after I started the interview process with
16 Foster Wheeler, I had learned through my interviews
17 with Lyondell that Foster Wheeler was the engineering
18 company; so, it was not ethical for me to continue
19 talking to them.20 And so, anyway, I was learning; and one
21 week after I got there, they can -- you know,
22 terminated the project manager for the La Porte
23 project that had the hundred million-dollar overrun.
24 His name was Rex West, W-E-S-T.

25 And I had heard via Don Jones

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1 primarily -- I mean, he's the one that had the long
2 history -- that, you know, this is pretty common
3 that -- and it's part of the industry that you're in.
4 I mean, you ultimately are the guy that's leading the
5 project, so, you know, they're going to replace you if
6 there's overrun, probably. Maybe. Depends on your
7 value, I think.

8 Q. So, Rex West is one individual whom you
9 allege was --

10 A. Yeah. I met him the day I got there to
11 Channelview, after my onboarding; and the next week,
12 he was gone.

13 Q. And so, his termination is -- is, in your
14 opinion, an example of Lyondell terminating another
15 older employee? Is that what you're saying?

16 A. Yes.

17 Q. Okay. But you're saying it was because of
18 the cost overruns?

19 A. Well, I am assuming that.

20 Q. Right.

21 A. I don't know. I wasn't told.

22 Q. Okay.

23 A. They didn't talk about why they -- why they
24 let him go.

25 Q. And you have any other basis to claim that;

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1 that in your opinion, Lyondell has an history of
2 letting go people who are older? I think that's what
3 you testified to.

4 A. I don't --

5 Q. Or project managers.

6 A. I don't have any direct knowledge of that.

7 Q. It's just conversation you had with Don
8 Jones?

9 A. Yes.

10 Q. But you can't raise any specific examples of
11 that?

12 A. No. Other than West, because that's the only
13 person I met.

14 Q. When you were terminated in January of 2016,
15 what -- what was -- what was communicated to you, the
16 basis for your termination?

17 A. It was communicated, one sentence: "You were
18 hired to right the ship and you didn't right the
19 ship."

20 I thought that's very unusual. A naval
21 term, you know, being used to me.

22 And I was looking at my notes in the
23 Daytimer. Those were the exact same references
24 that -- that McFall had said people were saying that
25 about me. He didn't say that, but he said people were

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1 saying I didn't right the ship. I thought, "That's
2 very unusual. Those were his exact same words used by
3 the" -- "Stan Tripp."

4 I guess they got it from whoever came up
5 with that term.

6 I said -- and that's all submitted --
7 "Why do you say that Stan? The ship was sunk when I
8 got there, and I was the best asset you ever had. I
9 was the only one that could coordinate that project."

10 And I said, "I guess you need a scapegoat."

11 He said, "No, I don't agree with that,"
12 and that was the end of the conversation, and his
13 hand.

14 I shook his hand, and that was it.

15 Q. So, they didn't tell you that part of the --
16 part of the reason that you were terminated was
17 because of your -- you know, the -- your behavior on
18 the project, your ability to communicate with people
19 effectively and lead the project?

20 A. No.

21 Q. No? And so, in your opinion, then, the basis
22 for your termination during that meeting was that the
23 company need a scapegoat? Is that right?

24 A. No. It's a statement that I made to him. My
25 basis is, age and disability.

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1 Q. Well, did you ever tell Stan -- who was in
2 the -- who was in the meeting when you were
3 terminated?

4 A. One -- one person besides Stan Tripp. The
5 Sigvalia [verbatim], I think -- no. Signoval --
6 Signal -- lovilla [verbatim]. She's in the -- she's
7 a human resources manager for the global projects
8 group; at least, that's what she was.

9 Q. Mm-hm.

10 A. Silva -- I've heard --

11 Q. Is her last name Silvagnoli?

12 A. Yeah.

13 Q. Okay.

14 A. I think you have it correct, yeah.

15 Q. Okay. So, it was just Mr. Tripp and
16 Ms. Silvagnoli?

17 A. Yes.

18 Q. Okay.

19 A. Small conference room.

20 Q. And Mr. Tripp just told you, "You didn't
21 right the ship."

22 You said, "The ship was sunk, and I
23 guess you just needed a scapegoat"; is that right?

24 A. I said that to him, yes.

25 Q. Did you ever -- did you ever, during your

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1 employment with Lyondell, make any complaints that the
2 company was discriminating against you based on your
3 disability?

4 A. I didn't state that to them at all that day
5 because that was the last day there.

6 Q. Well, let's not just focus on your
7 termination day; just, any time during your -- during
8 your tenure at Lyondell, did you ever complain or make
9 any kind of formal, you know, complaint that you felt
10 like you were being discriminated against based on
11 your disability?

12 A. I -- I never filed any formal complaint,
13 never stated it.

14 Q. And did you ever feel that way during your
15 employment?

16 A. No. I was thinking I was doing a great job.
17 The project was coming around, and we were recovering,
18 so I didn't -- I mean, I don't think I would have said
19 something like that.

20 Q. Well, in -- in your opinion, the project was
21 coming around, right?

22 A. The project was coming around, yes.

23 Q. But didn't the company do a cost reestimate
24 at the end of 2015 and 2016?

25 A. This -- this is a very important point that

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1 A. Yes.

2 Q. "This communication conundrum was a central
3 issue ... was never addressed by Tripp."

4 A. That's correct. What was not addressed was
5 the fact that capital project was in charge of -- the
6 capital projects group was in charge of the capital
7 project.

8 Q. Okay. So, there -- there was a -- a
9 communication conundrum, in your words, right, that
10 you're acknowledging, yes?

11 A. Yeah.

12 Q. Mr. Tripp tried to address it. He organized
13 a full-day seminar. You said so right here. And
14 we've -- we've -- we've talked about, too. We've --
15 he organized a full-day seminar on that issue which
16 you say was a joke --

17 A. It was --

18 Q. -- right?

19 A. -- a joke.

20 Q. Was it? Was it a joke because you showed up
21 late and everybody --

22 A. No.

23 Q. -- else was waiting on you?

24 A. No.

25 Q. Or what was the joke?

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1 A. No. It was a joke because nothing resolved
2 from that meeting. The meeting was to try to
3 basically take over the project. They put it in a
4 guise that it was some kind of coordination and
5 cooperation meeting between the event manager. No.
6 There was a mixup from day one, fostered by Tripp, of
7 the word, "event manager."

8 The people that actually came up with
9 that term that did the readiness assessment, I had
10 lunch with them one day, the head of that group.

11 They said that they went down to Corpus
12 one week after Cain came on board, and I was already
13 coming to the project -- no, I was coming to the
14 project; I hadn't been there yet -- and told Cain that
15 the definition of "event" is what happens at the
16 shutdown; at the shutdown, when the coordination of
17 all the different aspects of the project -- capital,
18 small projects, turnaround -- was under -- was the
19 definition that they envision when they made that term
20 "event manager," not getting documents and interfering
21 with the engineering and construction efforts, which
22 they did, you know.

23 Q. I don't understand how that's the basis for
24 your statement here in your rebuttal that the
25 communication meeting or seminar that was conducted

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1 for that full day was a joke.

2 A. Stan --

3 Q. So, let -- whether -- let's -- let's go this.

4 There were a lot of other people at
5 that -- at that seminar, correct?

6 A. No, there were not a lot of people.

7 Q. Well, then --

8 A. There was four --

9 Q. -- can you identify --

10 A. -- total.

11 Q. -- who was there?

12 A. Huh?

13 Q. Who was at the seminar?

14 A. Don Jones, the destruction manager.

15 Q. Mm-hm.

16 A. He will wholeheartedly agree with me.

17 Alan Valenta, Mike Cain and Randy Tatum
18 and Tripp and myself, and Pat McFall.

19 Q. Okay.

20 A. And Pat McFall was always supporting my
21 position and my responsibilities.

22 Q. Okay. But there are a -- there are a number
23 of -- number of people at that meeting, and it -- it
24 sounds like you're the only person that didn't
25 bring -- that didn't take anything out of it.

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1 A. No. I took out of it the fact that nothing
2 was resolved.

3 Nothing was resolved at that meeting.

4 Q. Did you show up to that meeting on time?

5 A. Yes. As far as I remember, yeah.

6 Q. So, whole group wasn't sitting there, waiting
7 for you for two hours to get started?

8 A. No.

9 Q. All right.

10 A. Don't remember that.

11 Q. All right. "The morale of the GP" -- let's
12 keep reading the same paragraph.

13 "The morale of the GP Construction
14 Manager at the site" --

15 A. Mm-hm.

16 Q. -- "was going too fast and I sincerely
17 thought this was a mistake I had made in coming to
18 this quagmire in the Lyondell project."

19 What does that mean?

20 A. Mm-hm. Mm-hm. Well, I made a mistake
21 joining Lyondell and having this dumped on me. But --

22 Q. Meaning, having what dumped on you?

23 A. The project.

24 Q. Well, I --

25 A. They were not honest, and then they tried to

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1 Q. So, what is it that you allege that they
2 didn't tell you?

3 A. They didn't tell me that they -- well, more
4 than likely, they couldn't tell me because they didn't
5 have any understanding that the estimate that they had
6 put together was incorrect, the schedule was
7 incorrect, the fact that they had selected an
8 engineering company that did not have the
9 qualifications to do this job.

10 Q. Did you ask any of those --

11 A. They were beginning to understand that after
12 I came and started pointing things out.

13 Q. Did you ask any of those questions before you
14 were hired?

15 A. No.

16 Q. Go to the next page, Page 8.

17 You and McFall are friends, right?

18 A. We're what?

19 Q. You and McFall are friends, right?

20 A. We were, yeah.

21 Q. But you're not friends anymore?

22 A. I wouldn't be his friend now, no.

23 Q. No?

24 A. Hm-mm.

25 Q. Well, at this time, you know, when you were

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1 working for Lyondell, were you friends with him at
2 that time?

3 A. Oh, yes.

4 Q. Yeah?

5 A. Mm-hm.

6 Q. All right. At this -- at the top of this
7 page, you say --

8 A. Mm-hm.

9 Q. Well, not the top of the page. Second
10 paragraph on Page 8 --

11 A. Yeah.

12 Q. -- "Tripp and McFall are both the epitome of
13 wannabe, weak, political [verbatim]" -- "politically
14 motivated 'survivors' without expertise in the
15 principles of project execution management."

16 A. Yes.

17 Q. What's that about?

18 A. Well, that's exactly in the same context that
19 I -- they were not really understanding of the
20 execution process, even though, you know, execution
21 plans were issued for the project, which you reviewed
22 before I even joined Lyondell. They were well
23 written. They were pretty much the same as many other
24 companies.

25 But they didn't have an understanding,

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1 until I kept pounding, of what was needed in order to
2 move the project forward.

3 And they were politically motivated, of
4 course. I mean, survivors. That's why Tripp, in my
5 opinion, finally gave up the fight.

6 Q. What do you mean, they are politically
7 motivated?

8 A. Survivors. I mean, they're not going to make
9 waves.

10 They both had just joined Lyondell, just
11 like I did; and you know, he -- from the standpoint of
12 survival, is what I mean.

13 Q. I don't understand what you're saying.

14 What do you mean, they were survivors?

15 A. They did -- they didn't fight to maintain
16 control for the global projects group to run the
17 project.

18 Q. You mean, in your opinion, they didn't?

19 A. In my opinion.

20 All of this is my opinion, right?

21 Q. Okay. Let's go to Page 10.

22 A. Mm-hm.

23 Q. All right. Here, you are talking about
24 Mr. McFall again, in the middle of the -- middle of
25 the page.

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1 Q. All right. And do you know what Lyondell's
2 policy is in terms of when they're contacted by -- by
3 potential employers about hiring a former employee of
4 the company?

5 MS. ROBERSON: Objection --

6 Q. (BY MR. HAYS) Do you know what the policy is?

7 MS. ROBERSON: Objection; speculation.

8 Q. (BY MR. HAYS) You can answer it.

9 A. Do I know the Lyondell policy?

10 Q. Mm-hm.

11 A. I've never read the policy. I'm not aware of
12 the specific wording of the policy.

13 Q. Okay. Earlier, we talked about a meeting
14 between -- that Stan Tripp coordinated, that you
15 thought was a joke.

16 A. Yeah.

17 Q. And you said so in your --

18 A. Yeah.

19 Q. -- your statement to the EEOC, right?

20 A. Mm-hm.

21 Q. Was Kim Foley the person that coordinated
22 that meeting?

23 A. Yes. Yes, he [verbatim] was.

24 Q. And --

25 A. Now I remember that. Yes. He was the

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1 coordinator.

2 Q. And what was Kim's role at the meeting?

3 A. He was just a facilitator posing the

4 questions.

5 Q. Kim Foley is a female, correct?

6 A. Yes. Yes, you're right. Now I remember.

7 Q. Okay. And she was an employee from a

8 different part of Lyondell, right?

9 A. I think so, yes.

10 Q. And she was brought in to facilitate this

11 meeting --

12 A. Yes.

13 Q. -- to try to get to the bottom of what the

14 communication issue was, right?

15 A. Right. On the definition of "event manager."

16 Q. And so, your testimony is that the meeting

17 that Kim Foley tried to coordinate was a joke?

18 A. The result of it. The interactions that were

19 happening at the meeting. We didn't move off of the

20 difference of opinion.

21 Q. Why do you think that is?

22 A. Why?

23 Q. Yeah.

24 A. Because I think the intransigence of Randy

25 Tatum and Mike Cain and Allen Valenta determined to --

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1 right?

2 A. Yeah.

3 Q. And then you've alleged age discrimination --

4 A. Mm-hm.

5 Q. -- under the Age Discrimination Employment
6 Act, right?

7 A. Right.

8 Q. All right. You also have -- there's a couple
9 references to Title 7 in your -- in your complaint;
10 but you're not bringing a claim under Title 7, too,
11 are you?

12 A. Please explain.

13 Q. Well, Title 7 is another -- another
14 discrimination statute. You're bringing your claims
15 under the age discrimination employment statute,
16 right?

17 A. I'm bringing my claim related to --

18 Q. Age discrimination.

19 A. -- age and disability, right.

20 Q. And you don't have a Family Medical Leave Act
21 claim, do you?

22 A. I don't know if it could be rolled in with
23 this because they chose to give me family leave,
24 Lyondell did, but they didn't honor the requirements
25 of FMLA.

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1 Q. But I'm asking, have you brought a Family
2 Medical Leave Act claim in this lawsuit.

3 A. No.

4 Q. Okay. So, the only claims you have in this
5 lawsuit are your age discrimination claim and your
6 disability discrimination claim, correct?

7 A. Yes. Correct.

8 Q. And the basis for your disability
9 discrimination claim is that -- I believe you
10 testified to this earlier; is that the company
11 basically decided that you were -- your disability
12 would create a liability.

13 Is that right?

14 A. Yes.

15 Q. Is there any other basis for your disability
16 discrimination claim?

17 A. I think they didn't think that I was healthy
18 enough to do a big project under stress like I was.

19 I would work every day, almost,
20 including weekends, a lot of times, until 7:30,
21 8:00 o'clock minimum before I'd go home.

22 I might not arrive in the office. I was
23 kind of -- I would sometimes arrive at 8:30 instead of
24 8:00 o'clock; but I was putting in about 60 hours a
25 week for the company.

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1 Q. And so, it -- it's your testimony, then, that
2 the basis for your discrimination claim based on your
3 disability is that the company -- like you said, the
4 company just decided for you that your disability
5 created job-limiting -- you know, some kind of job
6 limitation?

7 A. Yes, I believe that that is true. They were
8 paying me a high salary, and I couldn't fulfill that
9 kind of role that I had at capital project for
10 Lyondell --

11 Q. And --

12 A. -- at Foster Wheeler's office.

13 Q. And you don't have any other basis for your
14 disability discrimination claim?

15 A. No. They didn't give me any lack of facility
16 to, you know, make sure I didn't exert myself or lift
17 25 pounds, no.

18 Q. And what about your age discrimination claim?
19 What's the basis for your age discrimination claim?

20 A. I think it goes in hand with the disability
21 in that, you know, I'm one of the older individuals on
22 the project, and, you know, they thought that I was
23 seeking pretty quick retirement; that I would leave,
24 you know, 70 or whatever.

25 And so, they had a history of pushing

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1 while you were still employed, or was this after?

2 A. Both.

3 Q. Okay.

4 A. Both.

5 Q. And, well, I mean, what's the significance of
6 that?

7 A. Well, I think that he was -- well, McFall
8 wasn't calling me; and he was more or less kind of
9 checking on my health, I guess, from a standpoint of
10 how I was doing.

11 Q. Well --

12 A. He had suffered a major heart attack and a
13 triple bypass, et cetera.

14 Q. So, maybe he was -- I mean, it's clearly
15 possible that he was asking you how you were doing
16 because he was concerned about you. He was a friend,
17 he'd been through it before, and just wanted to know
18 how you were doing, right?

19 A. Correct.

20 Q. Right.

21 A. He stopped all that communication after the
22 EEOC charge.

23 Through 2016, he was still communicating
24 with me.

25 Q. But he wasn't a Lyondell employee when you

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1 and look up "Michael" -- "Michael Veit EEOC" --

2 A. Right.

3 Q. -- "charge," and yours is going to come up?

4 A. He may have been told by McFall. I don't
5 know.

6 Q. But he wasn't a Lyondell employee at that
7 time anyways, right?

8 A. True. But they continued to have --

9 Q. You also said that -- that Pat McFall -- you
10 said in a couple of places, in the lawsuit, and then
11 in your discovery responses, that Pat McFall suggested
12 on multiple occasions, before your heart attack --

13 A. Yeah.

14 Q. -- and after, that you retire?

15 A. Yeah.

16 Q. Was worried about your health, and things
17 like that, right?

18 A. Yeah. He would put in it that phraseology,
19 yeah.

20 Q. And when -- and, I mean, you and McFall were
21 friends, too, right? And he -- y'all are about the
22 same age. He's eight years younger than you.

23 A. Mm-hm.

24 Q. So, I mean, it's -- it's at least possible
25 that he was asking those questions or making those

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1 suggestions as your friend, right?

2 A. Yes.

3 Q. Yeah. So, you don't -- you don't allege that
4 he's saying, "Oh, you should retire" or "You
5 should" -- you know, "You should think about your
6 health," or, you know, "Think about retiring," because
7 of some kind of nefarious purpose on behalf of the
8 company, right?

9 MS. ROBERSON: Object --

10 A. Well, it's --

11 MS. ROBERSON: -- speculation.

12 Q. (BY MR. HAYS) You can answer it.

13 A. It -- it would be possible that him working
14 for Tripp, that they wanted me to remove -- be
15 removed. And it would be very easy. Had the heart
16 attack, had the health issues. "Why don't you just
17 retire?"

18 Q. Yes.

19 A. Or make me resign.

20 Q. You said in your responses and your
21 lawsuit -- well, in your responses, for sure --

22 A. Mm-hm.

23 Q. -- that he recommended you or that he, you
24 know, said, "Hey, you should think about retiring
25 before you had your heart attack," right?

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1 WITNESS CORRECTIONS AND SIGNATURE.

2 Please indicate changes on this sheet of paper,
3 giving the change, page number, line number and reason
for the change. Please sign each page of changes.

4 PAGE/LINE CORRECTION REASON FOR CHANGE

5 _____

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23 MICHAEL VEIT

24 _____

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1 S I G N A T U R E O F W I T N E S S

2

3 I, MICHAEL VEIT, solemnly swear or affirm under
4 the pains and penalties of perjury that the foregoing
5 pages contain a true and correct transcript of the
6 testimony given by me at the time and place stated
7 with the corrections, if any, and the reasons therefor
8 noted on the foregoing correction page(s).

9

10

11

MICHAEL VEIT

12

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1 IN THE UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 MICHAEL J. VEIT)
5 Plaintiff,)
6 v.) CIVIL ACTION
7 LYONDELL CHEMICAL) NO. 4:18-CV-00576
8 COMPANY)
9 Defendant.)

10 THE STATE OF TEXAS :
11 COUNTY OF HARRIS :

12 I, MENDY A. SCHNEIDER, a Certified Shorthand
13 Reporter in and for the State of Texas, do hereby
14 certify that the facts as stated by me in the caption
15 hereto are true; that the above and foregoing answers
16 of the witness, MICHAEL VEIT, to the interrogatories
17 as indicated were made before me by the said witness
18 after being first duly sworn to testify the truth, and
19 same were reduced to typewriting under my direction;
20 that the above and foregoing deposition as set forth
21 in typewriting is a full, true, and correct transcript
22 of the proceedings had at the time of taking of said
23 deposition.

24 I further certify that I am not, in any
25 capacity, a regular employee of the party in whose
behalf this deposition is taken, nor in the regular

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1 employ of this attorney; and I certify that I am not
2 interested in the cause, nor of kin or counsel to
3 either of the parties.

4

5 That the amount of time used by each party at
6 the deposition is as follows:

7 MS. ROBERSON - 00:00:00

8 MR. HAYS - 03:13:19

9

10 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on
11 this, the 17th of July, 2019.

12



13
14 MENDY A. SCHNEIDER, CSR, RPR
15 Certification No.: 7761
Expiration Date: 12-31-20

16

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